

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

TERRY WAYNE BOWLIN,)	
)	
Plaintiff,)	
)	
vs.)	No. CIV-09-493-D
)	
EVERETTE VAN HOESEN,)	
)	
Defendant.)	

REPORT AND RECOMMENDATION

Plaintiff, a prisoner appearing *pro se* filed this action pursuant to 42 U.S.C. §1983, alleging a violation of his constitutional rights. United States District Judge Timothy DeGiusti has referred the matter to the undersigned Magistrate Judge for initial proceedings consistent with 28 U.S.C. §636(b)(1)(B). For the reasons set forth herein, the undersigned recommends that the complaint be dismissed without prejudice, due to Plaintiff's failure to pay the initial partial filing fee.

By order of this Court dated July 15, 2009, Plaintiff was given one final extension of time to either pay the initial partial filing fee in the amount of \$13.67 or show cause for his failure to do so on or before August 4, 2009. Plaintiff was advised that failure to pay the initial partial filing fee or show cause in writing for his failure to do so by the date specified, could result in dismissal of this action without prejudice to refiling. A review of the court file reveals that as of this date, Plaintiff has not paid his initial partial filing fee, requested an extension of time within which to pay, or demonstrated any cause for his failure to pay.

Therefore, the undersigned recommends that this action be dismissed without prejudice to refiling. LCvR 3.4(a).

RECOMMENDATION

Accordingly, because Plaintiff has neither paid the partial filing fee as ordered by this court nor shown good cause for such failure, it is recommended that this action be dismissed without prejudice to refiling. Plaintiff is advised of his right to file an objection to this Report and Recommendation with the Clerk of this Court by August 31, 2009, in accordance with 28 U.S.C. §636 and Local Civil Rule 72.1. Plaintiff is further advised that failure to make timely objection to this Report and Recommendation waives his right to appellate review of both factual and legal issues contained herein. Moore v. United States, 950 F.2d 656 (10th Cir. 1991).

This Report and Recommendation disposes of all issues referred to the undersigned Magistrate Judge in the captioned matter.

ENTERED this 11th day of August, 2009.



DOYLE W. ARGO
UNITED STATES MAGISTRATE JUDGE